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and Pathward, N.A.*

20 **UNITED STATES DISTRICT COURT**

21 **NORTHERN DISTRICT OF CALIFORNIA**

22 KEVIN SMITH

23 Plaintiff,

24 vs.

25 INCOMM FINANCIAL SERVICES, INC. AND
26 PATHWARD, N.A.

27 Defendants.

28 Case No. 5:23-CV-4687-BF

29 **DECLARATION OF JANE
METCALF IN SUPPORT OF
STIPULATED REQUEST FOR
ORDER ADJOURNING DEADLINES
FOR CASE MANAGEMENT
STATEMENT AND CASE
MANAGEMENT CONFERENCE**

30 Judge: Hon. Beth Labson Freeman

31 Date: April 4, 2024

32 Time:

33 Place: Courtroom 3

34

**DECLARATION OF JANE METCALF IN SUPPORT OF STIPULATED REQUEST FOR
35 ORDER ADJOURNING DEADLINES FOR CASE MANAGEMENT STATEMENT AND CASE
36 MANAGEMENT CONFERENCE (Case No. 5:23-CV-4687-BF)**

1 I, Jane Metcalf, hereby declare as follows:

2 1. I am a partner of the law firm Patterson Belknap Webb & Tyler LLP, attorneys for
3 Defendants InComm Financial Services, Inc. and Pathward, N.A. (“Defendants”). I am a member in
4 good standing of the bar of the State of New York and have been admitted *pro hac vice* to the
5 Northern District of California to appear in this action.

6 2. Pursuant to Local Rule 6-2, I submit this declaration in support of the parties’ joint
7 Stipulated Request for an Order adjourning deadlines for the Case Management Statement and the
8 Case Management Conference.

9 3. On September 14, 2023, the Court entered an Initial Case Management Order, which,
10 among other things, set a deadline for a Case Management Statement to be due by December 6,
11 2023, and for an Initial Case Management Conference to be set for December 13, 2023.

12 4. On November 16, 2023, Plaintiff Kevin Smith (“Plaintiff”) and Defendants, by and
13 through counsel, entered into a stipulation to extend the time for Defendants to respond to the
14 Complaint to December 15, 2023.

15 5. On November 22, 2023, this case was reassigned to the Hon. Beth Labson Freeman.

16 6. On November 27, 2023, the clerk entered a notice resetting the deadline for
17 submission of the Case Management Statement to March 28, 2024, and resetting the Initial Case
18 Management Conference to April 4, 2024.

19 7. On December 15, 2023, Defendants filed their motion to dismiss.

20 8. On March 7, 2024, the Court approved and granted the parties’ jointly stipulated
21 request to adjourn the briefing schedule and hearing for the previously filed Motion to Dismiss to
22 allow Plaintiff to file an amended complaint.

23 9. The Amended Complaint will be filed by March 21, 2024, and Defendants’ responses
24 will be filed by May 20, 2024.

25
26 DECLARATION OF JANE METCALF IN SUPPORT OF STIP. REQUEST FOR ORDER
27 ADJOURNING DEADLINES FOR CASE MANAGEMENT STATEMENT AND CASE
MANAGEMENT CONFERENCE (Case No. 5:23-CV-4687-BF)

10. No other deadlines have thus far been set by the Court, nor have the parties sought any other extensions besides the ones disclosed here.

11. The parties seek to adjourn the deadlines for the Case Management Statement and Case Management Conference because they agree that such an adjournment until the Amended Complaint and Defendants' responses are filed and the parties have had the opportunity to review both will facilitate a more productive discussion of the issues to be addressed by the Case Management Statement between counsel and a more effective presentation of any issues to be resolved to the Court.

12. The parties have proposed deadlines that will not require extension of any of the deadlines set by Court order.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on: March 19, 2024

New York, New York

Paul Brug

DECLARATION OF JANE METCALF IN SUPPORT OF STIP. REQUEST FOR ORDER
ADJOURNING DEADLINES FOR CASE MANAGEMENT STATEMENT AND CASE
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